



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

August 4, 2025

BY ECF

Hon. John G. Koeltl
Daniel Patrick Moynihan United States Courthouse
500 Pearl St.
New York, NY 10007

*The relief in this letter is granted.
The Clerk is directed to close ECF No. 10.*

Re: *Asylum Seeker Advocacy Project v. U.S. Citizenship and Immigration Services,*
25 Civ. 6065 (JGK)

SO ordered.

Dear Judge Koeltl:

*8/5/25 JGK
U.S.D. S.*

Jointly with counsel for plaintiff, Asylum Seeker Advocacy Project (ASAP), I write respectfully on behalf of the United States Citizenship and Immigration Services (USCIS) to notify the Court of an agreement the parties have reached that will avoid the need for the Court to decide plaintiff's application for a temporary restraining order, ECF No. 10. We provide the status of plaintiff's three FOIA requests, and the parties' agreement, below. We respectfully request that the Court so-order this letter, which will give full effect to the parties' agreement and will render moot plaintiff's TRO application.

Background. This case arises principally from three FOIA requests that ASAP made to USCIS. *See* Complaint Exhs. 1, 2, 3, ECF Nos. 1-1, 1-2, 1-3. ASAP's TRO application seeks an order that USCIS expeditiously process all three requests, and also seeks USCIS's proactive disclosure of relevant documents if required by 5 U.S.C. § 552(a)(2)(B) & (C). *See* Proposed Order, ECF No. 10-1.

Request 1. On July 31, government counsel provided to plaintiff a two-page memorandum dated May 2, 2025, that delegates certain authorities to USCIS. The parties agree that this response fully satisfies plaintiff's first request, and accordingly that the request for expedited processing of request 1 is moot.

Requests 2 and 3. While USCIS does not concede that plaintiff has demonstrated that requests 2 and 3 are entitled to expedited processing, USCIS has agreed to treat those requests as though they were expedited, with the result that they will be processed "as soon as practicable," 5 U.S.C. § 552(a)(6)(E)(iii), which the statute provides for expedited requests. Accordingly, the parties agree that, if the Court so-orders this letter, plaintiff's request for expedited processing of requests 2 and 3 will be satisfied (and the TRO application moot in this respect).

USCIS has also issued acknowledgment letters for requests 2 and 3, and has begun searches for records responsive to both requests. The parties have scheduled a meet and confer session for August 15, 2025, so that the government can provide an update on the status of the

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agency's searches, and the parties can discuss next steps, including whether any prioritization or narrowing is possible. (If the government can report substantive information earlier than August 15, it will promptly do so.)

For both requests 2 and 3, USCIS's response letters invoke "unusual circumstances" pursuant to 5 U.S.C. § 552(a)(6)(B), which afford the agency ten additional business days to issue a determination. Accordingly, USCIS's determination is due by August 21, 2025. *See* 5 U.S.C. §§ 552(a)(6)(A)(i) (20 business day default), (a)(6)(B) (allowing ten-day extension for unusual circumstances). Accordingly, the parties agree that, as of this time, with respect to requests 2 and 3, plaintiff has not at this time exhausted its administrative remedies with respect to the substance of these requests. Furthermore, the parties agree that plaintiff will not seek attorneys' fees for any issues that have not been administratively exhausted.

Proactive disclosure. Plaintiff's TRO application also seeks relief regarding FOIA's proactive disclosure provisions in regard to certain requested documents. *See* ECF No. 10-1. Although plaintiff reserves the right to pursue these claims, the parties agree that the requested relief need not be considered on an emergency basis.

Status report proposal. The parties respectfully propose that they file a joint status report by August 29, 2025.

Conclusion. The parties respectfully request that the Court so-order this letter to give effect to the parties' agreement. If the Court does so, the parties agree that plaintiff's pending application for emergency relief, ECF Nos. 9, 10, may be denied as moot.

We thank the Court for its attention to this matter.

Respectfully submitted,

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**Motion for admission pro hac vice forthcoming*